

REMARKS

Claims 1-20 are pending in this application. Claims 1-5 and 8-20 are rejected under 35 USC 102(b) as being anticipated by Lounsberry. Claim 7 is rejected under 35 USC 103(a) as being unpatentable over Lounsberry in view of Arens. Claim 6 is objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form.

The specification has been amended herein to correct several typographical errors.

Claims 9-11 have been cancelled herein.

The applicants traverse the rejection of claims 1-5, 8, and 12-20 as being anticipated under 35 USC 102(b). MPEP §2131 provides:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference." *Verdegual Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim...

The Examiner's statement beginning on page 2 and continuing onto page 3 of the Office Communication provides a broad description of the Examiner's interpretation of the teaching of Lounsberry. The Examiner has not specifically addressed each and every element of claims 1-5 and 8-20. Contrary to the Examiner's statement, all of the elements of claims 1-5, 8, and 11-20 are not disclosed in Lounsberry, as specifically discussed below.

Claim 1 includes the elements of:

"a sensor associated with a first position on a rail for producing a lubrication signal when a locomotive pulling a plurality of load cars moves adjacent the first position; and

a lubricant dispensing apparatus for applying a lubricant to the rail at a second position on the rail in response to the lubrication signal, the lubricant adapted to reduce

the friction between wheels of the load cars and the rail, the first position and the second position being separated by a distance on the rail sufficient to prevent the lubricant from contacting any drive wheel of the locomotive consist..." (Underlining added for emphasis)

The Examiner points to column 3, line 44 to column 4, line 27 of Lounsberry as disclosing the first position and the second position being separated by a distance sufficient to prevent the lubricant from contacting the drive wheels of the locomotive. Contrary to the Examiner's statement, this portion of Lounsberry does not teach such a separation distance. The cited portion of Lounsberry discusses the operation of microprocessor 28, but it does not mention a physical distance between the sensor and the lubricant dispensing apparatus. Thus, the rejection of claim 1 is unsupported by the art and should be withdrawn.

Furthermore, FIG. 1 of Lounsberry shows a lubricant dispensing apparatus (lubricant distribution system) at the same location on the rail as the wheel sensor, with four lubricant applicators 10 being spaced on opposed sides of the centrally located sensor within the distance of two railroad ties from the sensor. Thus, Lounsberry does not disclose (in fact teaches away from) the claim 1 element of "the first position and the second position being separated by a distance on the rail sufficient to prevent the lubricant from contacting drive wheels of the locomotive."

Furthermore, Lounsberry specifically describes the lubricant distribution system as applying lubricant between the passage of a front truck of a railway vehicle and the passage of its rear truck (column 6, lines 20-25). As shown in the Figure and discussed on page 5, line 26 of the specification, it is known that both the front truck and the rear truck of a locomotive are drive wheels. This provides further evidence that Lounsberry does not disclose the claim 1 element of "the first position and the second position being separated by a distance on the rail sufficient to prevent the lubricant from contacting any drive wheel of the locomotive consist." Accordingly, these are further examples of why the rejection of claim 1 is unsupported by the art and should be withdrawn.

Claim 2 contains the element of "a refilling device for adding lubricant to the lubricant container at no more than a predetermined rate." No refilling device is disclosed in Lounsberry. The Examiner states that such a refilling device is "inherent" in

Lounsberry. To the contrary, Lounsberry discloses a grease hopper or lubricant reservoir R with a hinged lid L. (column 2, lines 54-55). The only "inherent" method for refilling a reservoir with a hinged lid is to simply pour more lubricant into the reservoir from a bucket or other dispenser. Thus, Lounsberry fails to disclose (and actually teaches away from) the element of "a refilling device for adding lubricant to the lubricant container at no more than a predetermined rate." Thus, the rejection of claim 2 is unsupported by the art and should be withdrawn.

The Examiner cites column 6, lines 4-25 of Lounsberry as disclosing the claim 3 element of "a bypass device for selectively preventing the lubricant dispensing apparatus from applying the lubricant in response to the lubrication signal." Contrary to the Examiner's statement, no such element is disclosed in Lounsberry. The cited lines of Lounsberry are directed to the TEST cycle that is specifically described as a mode during which the motor M is powered for a time to dispense a desired amount of lubricant. Thus, the rejection of claim 3 is unsupported by the art and should be withdrawn.

Claim 4 includes the element of "a controller terminating the application of the lubricant to the rail by the lubricant dispensing apparatus before a number of the load cars at a rear of the train pass the second position." The Examiner makes a general statement that this element is disclosed in Lounsberry, but no specific column and line numbers pointing to such teaching in Lounsberry is provided. Contrary to the Examiner's statement, this element is not disclosed in Lounsberry. Thus, the rejection of claim 4 is unsupported by the art and should be withdrawn.

Independent claim 5 includes the element "a bypass device for selectively preventing operation of the lubricant dispensing apparatus in applying the lubricant in response to the lubrication signal under circumstances in which the addition of lubricant onto the rails is undesirable." The Examiner cites column 6, lines 4-25 of Lounsberry as disclosing "a bypass device for selectively preventing the lubricant dispensing apparatus from applying the lubricant in response to the lubrication signal." Contrary to the Examiner's statement, no such element is disclosed in Lounsberry. The cited lines of Lounsberry are directed to the TEST cycle that is specifically described as a mode during which the motor M is powered for a time to dispense a desired amount of lubricant.

(column 5, lines 33-36) Thus, the rejection of claim 5 is unsupported by the art and should be withdrawn.

The Examiner cites the TEST signal of Lounsberry as disclosing the claim 8 element of an environmental sensor generating a signal to the bypass device for preventing the lubricant dispensing apparatus from applying the lubricant in response to a predetermined environmental condition. Contrary to the Examiner's statement, the TEST signal does not function to prevent the apparatus from applying the lubricant, but rather it functions to dispense a desired amount of lubricant. (column 5, lines 33-36) Lounsberry does describe the PILOT command as being temperature-dependent (column 5, lines 14-27), but such temperature dependence does not function to prevent the apparatus from applying lubricant. Rather, this temperature dependence ensures that the apparatus will dispense an adequate amount of lubricant even at low temperatures. Thus, the rejection of claim 8 is unsupported by the art and should be withdrawn.

Independent claim 12 includes the element of "a timing apparatus associated with the dispenser for delaying the application of lubricant for a predetermined time period after the vehicle wheel moves adjacent to the location on the rail..." The applicants find no such teaching in Lounsberry. Thus, the rejection of claim 12 is unsupported by the art and should be withdrawn.

Claim 13 includes the element of "wherein the timing delay apparatus comprises a lubricant pump and a conduit for flow of lubricant downstream of the pump which presents a volume to be filled with lubricant before lubricant is discharged to the rail." The applicants find no such teaching in Lounsberry. Thus, the rejection of claim 13 is unsupported by the art and should be withdrawn.

Independent claim 14 includes the element of "a dispenser applying a lubricant to a section of the rail in response to the lubrication signal only after the locomotive has passed the section of rail..." The applicants find no such teaching in Lounsberry. Thus, the rejection of claim 14 is unsupported by the art and should be withdrawn.

Claim 15 includes the element of "wherein the dispenser further comprises a timing circuit for delaying a start of application of the lubricant to the section of rail for a predetermined time period after generation of the lubrication signal." The applicants find

no such teaching in Lounsberry. Thus, the rejection of claim 15 is unsupported by the art and should be withdrawn.

Claim 16 includes the elements of "a sensor detecting an end of the train; and a controller terminating the application of lubricant to the section of rail before the end of the train passes the section of rail." The applicants find no such teaching in Lounsberry. Thus, the rejection of claim 16 is unsupported by the art and should be withdrawn.

Independent claim 17 includes the elements of "applying lubricant to a rail at a first time in response to the presence of a first train at a location along the rail; sensing the presence of a second train at the location at a second time; and applying lubricant to the rail in response to the presence of the second train at the location, with the quantity of lubricant applied at the second time being responsive to the time span between said first and second times." The applicants find no such teaching in Lounsberry. Thus, the rejection of claim 17 is unsupported by the art and should be withdrawn.

Claim 18 includes the element of "further comprising applying no lubricant at the second time if the time span has not exceeded a predetermined minimum." The applicants find no such teaching in Lounsberry. Thus, the rejection of claim 18 is unsupported by the art and should be withdrawn.

Independent claim 19 includes the elements of "sensing the presence of a train on a rail; applying a lubricant to a section of the rail in response to the presence of the train after the locomotive at the head of the train has passed the section of rail; and terminating the application of lubricant to the section of rail before an end of the train passes the section of rail so that the quantity of lubricant on the section of rail is dissipated by wheels of a plurality of cars proximate the end of the train." The applicants find no such teaching in Lounsberry. Thus, the rejection of claim 19 is unsupported by the art and should be withdrawn.

Claim 20 includes the elements of "detecting the end of the train proximate a position of the rail a predetermined distance from a position of a lubricant applicator; and terminating application of the lubricant by the lubricant applicator in response to the detection of the end of the train." The Examiner has failed to address these elements in the Office Communication. The applicants find no such teaching in Lounsberry. Thus, the rejection of claim 20 is unsupported by the art and should be withdrawn.

The applicants also traverse the rejection of claim 7 under 35 USC 103(a). First, claim 7 depends from claim 5. As described above, the rejection of claim 5 is without merit, thus both claims 5 and 7 are in condition for allowance. Furthermore, claim 7 has the additional element of "wherein the bypass device comprises a remote signal reception device for receiving a signal from a remote location for controlling the bypass device." The Examiner points to paragraph 0010 of Arens as disclosing this element. Contrary to the Examiner's statement, paragraph 0010 of Arens discloses a remote signal transmitting device for transmitting data regarding the lubrication device to a remote location. Arens does not disclose a remote signal reception device for controlling anything, and further Arens does not disclose a remote signal reception device for controlling a bypass device. The combination of Lounsberry and Arens does not contain each of the elements of claim 7, therefore, the Examiner has not established a prima facie case for the rejection of claim 7 under 35 USC 103(a).

Reconsideration of the application and allowance of claims 1-8 and 12-20 are respectfully requested.

Respectfully submitted,



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